

REPORT

DATE: June 3, 2004

TO: The Community Economic and Human Development Committee (CEHD)

FROM: Tonya Gorham, Government Affairs Analyst
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SUBJECT: AB 2702 (Steinberg) Housing: Second Units

EXECUTIVE DIRECTOR'S APPROVAL

RECOMMENDED ACTION: Oppose unless amended

SUMMARY:

As amended May 6, 2004 AB 2702 does the following:

- Clarifies the definition of "use by right" in the context of providing sufficient sites for owner-occupied and rental residential use and farmworker housing by stating that such use does not require a planned unit development permit or other discretionary permit.
- Prohibits a local agency from establishing minimum unit size requirements for attached and detached second units below 550 livable square feet, unless requested by the owner.
- Prohibits local governments from enacting any ordinance effectively precluding second units in any residential zone unless it finds, based on substantial evidence that a specific adverse impact on public health, safety and welfare, would result from allowing second units in residential zones.
- Prohibits a local government from requiring an owner's dependent or caregiver to be the occupant of a second unit.
- Authorizes a local government to require that an applicant for a permit to create a second unit be an owner-occupant of either the primary or the second unit.

AB 2702 is an attempt to increase housing supply without using additional land and infrastructure. While SCAG supports the concept of in-fill housing, AB2702 places restrictions on local government policy making ability and attempts to impose and "one size fits all" rule to local governments not allowing for differences in communities.

The Compass Growth Vision report, approved by this Committee in May, provides a framework for the region's policy on growth and development issues. The vision calls for future growth to be concentrated along transportation rich corridors and in regional and sub-regional centers. The vision calls for these development patterns to be implemented through proactive and cooperative planning that adapts to local conditions while taking advantage of identified opportunities to meet regional objectives.

The vision recognizes a critical shortage of housing in the region. Through Principle #2 "Foster livability in all communities", the vision encourages in-fill development and redevelopment to revitalize existing communities to increase housing supply and affordability. Also in Principle #3 "Enable Prosperity for All People" the vision encourages a variety of housing types to meet the needs of all income levels in each

community. By encouraging second units on existing properties, AB 2702 potentially supports policy objectives of the region.

However, the vision also places an emphasis on strategic actions to leverage a variety of objectives including improving efficiency in transportation system, accommodating growth in efficient urban form and promoting comprehensive planning. In order to achieve these objectives of the vision, proactive planning is required rather than the prohibitive measures outlined in AB 2702. This bill could be an effective tool only to the extent it is applied to targeted circumstances to promote multiple goals and only where a demonstrated nexus for these objectives is established. Specifically, staff recommends the following amendments:

The provisions of this bill should apply only where the jurisdiction is unable to otherwise identify sites sufficient to meet the share of regional housing need.

The provisions should apply to specific geographic areas, such as residential zones within 1/2 mile of a rail transit station, 1/4 mile of a major bus station, within 1/4 mile of a major transportation corridor, or within a mile of a major facility such as an airport.

Both proposed amendments would address the “one size fits all” issue in AB 2702. The first proposed amendment supports a viable option for housing development to those communities in need of increased housing with limited land space while not placing restrictions on communities that are able to meet their need. The second proposed amendment, while eliminating the “one size fits all” element of the bill, would also support policy objectives outlined in the Vision, including Principle #1 “Improve Mobility For All Residents”. This principle encourages transportation investments and land use decision that are “mutually supportive” and transit oriented development, while promoting a variety of transportation options for residents.

If amended, the bill would reinforce established policy objectives without creating undue hardship and prohibitions on local governments. Staff recommends an Oppose Unless Amended position on AB 2702.

BACKGROUND:

AB 2702 authored by Assembly Member Steinberg is intended to increase the supply of housing and spur in-fill development by limiting local governments' ability to deny or place restrictions on the development of second housing units. Second units, also called accessory dwelling units, are usually living units that are smaller than the main houses but on the same parcel or lot. These units can be attached, contained within a larger house, or detached. AB 1866 (Wright), Chapter 1062, Statutes of 2002, which became effective July 1, 2003 mandated cities develop criteria for approval of second units and removed discretion from the decision-making process. If a proposal meets the criteria, the city must approve the project without any public hearings or additional requirements. Under AB 1866, if localities do not adopt a second unit ordinance, state law sets development standards for second units. AB 2702 is an attempt to clarify and also limit the development standards that local governments may apply to second units in order to fulfill the intention of AB 1866.

SUPPORT:

The co-sponsors of AB 2702 are the California Association of Realtors, the California Rural Legal Assistance Foundation and the Western Center on Law and Poverty. The registered list of supporters of this legislation includes about 80 organizations and the following is a partial list:

- AARP
- California Apartment Association
- California Labor Federation, AFL-CIO
- California Partnership, Downey
- City of Calabasas
- Santa Ana Coalition for Economic Survival,
- Los Angeles Community Housing Improvement,
- Enterprise Foundation, Los Angeles
- Esperanza Community Housing Corporation, Los Angeles

- Fair Housing Council of Riverside County
- Neighborhood Housing Services of Orange County and Inland Empire
- Orange County Community Housing Corporation,
- Los Angeles Skid Row Housing Trust, Los Angeles
- Southern California Association of Non-Profit Housing, Los Angeles
- Southern California Housing Development Corporation, Rancho Cucamonga
- Strategic Actions For A Just Economy,
- Vietnam Veterans of California
- West Hollywood Community Housing Corporation

OPPOSE:

The following agencies oppose AB 2702:

- American Planning Association, California Chapter
- California State Association of Counties (CSAC)
- League of California Cities
- Independent Cities Association
- Sierra Club
- South Bay Council of Governments
- Several cities including the following cities in the SCAG region: Brea, Bellflower, Culver City, Lakewood, Moreno Valley, rancho Cucamonga, Palos Verdes Estates, Seal Beach and Thousand Oaks.

BILL STATUS:

AB 2702 (Steinberg) was heard in the Assembly Appropriations Committee on May 12, 2004 and passed out of committee by a vote of 13 to 7. It is currently in third reading on the Assembly Floor

FISCAL IMPACT:

All work related to adopting the recommended staff action is contained within the adopted FY 03/04 budget and adopted 2004 SCAG Legislative Program and does not require the allocation of any additional financial resources.

ATTACHMENT:

AB 2702 (Steinberg)

Tonya Gorham
AB 2702 CEHD
Docs#98921



**SOUTHERN CALIFORNIA
ASSOCIATION of GOVERNMENTS**

AMENDED IN ASSEMBLY MAY 6, 2004
AMENDED IN ASSEMBLY APRIL 28, 2004
AMENDED IN ASSEMBLY APRIL 19, 2004
AMENDED IN ASSEMBLY MARCH 26, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2702

Introduced by Assembly Member Steinberg

February 20, 2004

An act to amend Section 65583 of, to add Sections 65852.8 and 65917.1 to, and to repeal Section 65852.2 of, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2702, as amended, Steinberg. Housing: second units.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right.

This bill would revise the definition of the phrase “use by right” as specified and state that the changes are declaratory of existing law.

(2) The Planning and Zoning Law authorizes a local agency to provide by ordinance for the creation of 2nd units on parcels zoned for a primary single-family and multifamily residence. When the local

agency has not adopted an ordinance, it is required to grant a variance or special use permit for the creation of a 2nd unit that complies with statutory requirements but may require the applicant to be an owner-occupant. Existing law specifies the floor area of a permitted 2nd unit and parking requirements.

This bill would revise the above requirements, as specified, and would provide that local agency ordinances, regulations, or policies may not preclude or effectively preclude 2nd units unless the local agency makes findings based on substantial evidence, as specified.

The bill would prohibit a local agency from adopting an ordinance that requires an applicant or occupant of a 2nd unit or principal dwelling unit to be an owner-occupant or his or her dependent or a caregiver for the owner or dependent or that restricts the rent or income of occupants of 2nd units or that limits occupancy based on familial status, age, or other specified characteristics. The bill would prohibit a local agency from imposing a deed restriction requirement or other specified restriction relating to occupancy, tenure, or other characteristics, as specified. The bill would also, among other things, prohibit a local agency from establishing minimum unit size requirements for attached and detached 2nd units below 550 livable square feet unless requested by the owner and would revise the parking requirements for 2nd units.

The bill would authorize a local agency to charge a permit applicant a reasonable fee to cover the costs that it incurs as a result of the enactment of these provisions.

(3) The Planning and Zoning Law also requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with incentives or concessions for the production of lower income housing units within the development if the developer meets certain requirements.

The bill would provide, with respect to those incentives, that multifamily and single-family residential use is a permitted use on any parcel zoned and developed for primary or secondary education and residential uses. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide

and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65583 of the Government Code is
2 amended to read:

3 65583. The housing element shall consist of an identification
4 and analysis of existing and projected housing needs and a
5 statement of goals, policies, quantified objectives, financial
6 resources, and scheduled programs for the preservation,
7 improvement, and development of housing. The housing element
8 shall identify adequate sites for housing, including rental housing,
9 factory-built housing, and mobilehomes, and shall make adequate
10 provision for the existing and projected needs of all economic
11 segments of the community. The element shall contain all of the
12 following:

13 (a) An assessment of housing needs and an inventory of
14 resources and constraints relevant to the meeting of these needs.
15 The assessment and inventory shall include all of the following:

16 (1) An analysis of population and employment trends and
17 documentation of projections and a quantification of the locality's
18 existing and projected housing needs for all income levels. These
19 existing and projected needs shall include the locality's share of the
20 regional housing need in accordance with Section 65584.

21 (2) An analysis and documentation of household
22 characteristics, including level of payment compared to ability to
23 pay, housing characteristics, including overcrowding, and housing
24 stock condition.

25 (3) An inventory of land suitable for residential development,
26 including vacant sites and sites having potential for
27 redevelopment, and an analysis of the relationship of zoning and
28 public facilities and services to these sites.

1 (4) An analysis of potential and actual governmental
2 constraints upon the maintenance, improvement, or development
3 of housing for all income levels and for persons with disabilities
4 as identified in the analysis pursuant to paragraph (6), including
5 land use controls, building codes and their enforcement, site
6 improvements, fees and other exactions required of developers,
7 and local processing and permit procedures. The analysis shall also
8 demonstrate local efforts to remove governmental constraints that
9 hinder the locality from meeting its share of the regional housing
10 need in accordance with Section 65584 and from meeting the need
11 for housing for persons with disabilities identified pursuant to
12 paragraph (6).

13 (5) An analysis of potential and actual nongovernmental
14 constraints upon the maintenance, improvement, or development
15 of housing for all income levels, including the availability of
16 financing, the price of land, and the cost of construction.

17 (6) An analysis of any special housing needs, such as those of
18 the elderly, persons with disabilities, large families, farmworkers,
19 families with female heads of households, and families and
20 persons in need of emergency shelter.

21 (7) An analysis of opportunities for energy conservation with
22 respect to residential development.

23 (8) An analysis of existing assisted housing developments that
24 are eligible to change from low-income housing uses during the
25 next 10 years due to termination of subsidy contracts, mortgage
26 prepayment, or expiration of restrictions on use. "Assisted
27 housing developments," for the purpose of this section, shall mean
28 multifamily rental housing that receives governmental assistance
29 under federal programs listed in subdivision (a) of Section
30 65863.10, state and local multifamily revenue bond programs,
31 local redevelopment programs, the federal Community
32 Development Block Grant Program, or local in-lieu fees.
33 "Assisted housing developments" shall also include multifamily
34 rental units that were developed pursuant to a local inclusionary
35 housing program or used to qualify for a density bonus pursuant
36 to Section 65916.

37 (A) The analysis shall include a listing of each development by
38 project name and address, the type of governmental assistance
39 received, the earliest possible date of change from low-income use
40 and the total number of elderly and nonelderly units that could be

1 lost from the locality's low-income housing stock in each year
2 during the 10-year period. For purposes of state and federally
3 funded projects, the analysis required by this subparagraph need
4 only contain information available on a statewide basis.

5 (B) The analysis shall estimate the total cost of producing new
6 rental housing that is comparable in size and rent levels, to replace
7 the units that could change from low-income use, and an estimated
8 cost of preserving the assisted housing developments. This cost
9 analysis for replacement housing may be done aggregately for
10 each five-year period and does not have to contain a
11 project-by-project cost estimate.

12 (C) The analysis shall identify public and private nonprofit
13 corporations known to the local government which have legal and
14 managerial capacity to acquire and manage these housing
15 developments.

16 (D) The analysis shall identify and consider the use of all
17 federal, state, and local financing and subsidy programs which can
18 be used to preserve, for lower income households, the assisted
19 housing developments, identified in this paragraph, including, but
20 not limited to, federal Community Development Block Grant
21 Program funds, tax increment funds received by a redevelopment
22 agency of the community, and administrative fees received by a
23 housing authority operating within the community. In considering
24 the use of these financing and subsidy programs, the analysis shall
25 identify the amounts of funds under each available program which
26 have not been legally obligated for other purposes and which could
27 be available for use in preserving assisted housing developments.

28 (b) (1) A statement of the community's goals, quantified
29 objectives, and policies relative to the maintenance, preservation,
30 improvement, and development of housing.

31 (2) It is recognized that the total housing needs identified
32 pursuant to subdivision (a) may exceed available resources and the
33 community's ability to satisfy this need within the content of the
34 general plan requirements outlined in Article 5 (commencing with
35 Section 65300). Under these circumstances, the quantified
36 objectives need not be identical to the total housing needs. The
37 quantified objectives shall establish the maximum number of
38 housing units by income category that can be constructed,
39 rehabilitated, and conserved over a five-year time period.

1 (c) A program which sets forth a five-year schedule of actions
2 the local government is undertaking or intends to undertake to
3 implement the policies and achieve the goals and objectives of the
4 housing element through the administration of land use and
5 development controls, provision of regulatory concessions and
6 incentives, and the utilization of appropriate federal and state
7 financing and subsidy programs when available and the utilization
8 of moneys in a low- and moderate-income housing fund of an
9 agency if the locality has established a redevelopment project area
10 pursuant to the Community Redevelopment Law (Division 24
11 (commencing with Section 33000) of the Health and Safety Code).
12 In order to make adequate provision for the housing needs of all
13 economic segments of the community, the program shall do all of
14 the following:

15 (1) (A) Identify adequate sites which will be made available
16 through appropriate zoning and development standards and with
17 services and facilities, including sewage collection and treatment,
18 domestic water supply, and septic tanks and wells, needed to
19 facilitate and encourage the development of a variety of types of
20 housing for all income levels, including multifamily rental
21 housing, factory-built housing, mobilehomes, housing for
22 agricultural employees, emergency shelters, and transitional
23 housing in order to meet the community's housing goals as
24 identified in subdivision (b).

25 (i) Where the inventory of sites, pursuant to paragraph (3) of
26 subdivision (a), does not identify adequate sites to accommodate
27 the need for groups of all household income levels pursuant to
28 Section 65584, the program shall provide for sufficient sites with
29 zoning that permits approval of owner-occupied and rental
30 *multifamily* units to obtain a residential use by right, including
31 density and development standards that could accommodate and
32 facilitate the feasibility of housing for very low and low-income
33 households.

34 (ii) Where the inventory of sites pursuant to paragraph (3) of
35 subdivision (a) does not identify adequate sites to accommodate
36 the need for farmworker housing, the program shall provide for
37 sufficient sites to meet the need with zoning that permits
38 farmworker housing use by right, including density and
39 development standards that could accommodate and facilitate the

1 feasibility of the development of farmworker housing for low- and
2 very low income households.

3 (B) For purposes of this subdivision, the phrase “use by right”
4 shall mean that the use does not require a conditional use permit
5 or a planned unit development permit, except when the proposed
6 project is a mixed-use project involving both commercial or
7 industrial uses and residential uses. Use by right for all rental
8 housing shall be provided in accordance with subdivision (f) of
9 Section 65589.5. The amendments to this subparagraph made by
10 the act adding this sentence are declaratory of existing law.

11 (C) The requirements of this subdivision regarding
12 identification of sites for farmworker housing shall apply
13 commencing with the next revision of housing elements required
14 by Section 65588 following the enactment of this subparagraph.

15 (2) Assist in the development of adequate housing to meet the
16 needs of low- and moderate-income households.

17 (3) Address and, where appropriate and legally possible,
18 remove governmental constraints to the maintenance,
19 improvement, and development of housing, including housing for
20 all income levels and housing for persons with disabilities. The
21 program shall remove constraints to, or provide reasonable
22 accommodations for housing designed for, intended for
23 occupancy by, or with supportive services for, persons with
24 disabilities.

25 (4) Conserve and improve the condition of the existing
26 affordable housing stock, which may include addressing ways to
27 mitigate the loss of dwelling units demolished by public or private
28 action.

29 (5) Promote housing opportunities for all persons regardless of
30 race, religion, sex, marital status, ancestry, national origin, color,
31 familial status, or disability.

32 (6) (A) Preserve for lower income households the assisted
33 housing developments identified pursuant to paragraph (8) of
34 subdivision (a). The program for preservation of the assisted
35 housing developments shall utilize, to the extent necessary, all
36 available federal, state, and local financing and subsidy programs
37 identified in paragraph (8) of subdivision (a), except where a
38 community has other urgent needs for which alternative funding
39 sources are not available. The program may include strategies that
40 involve local regulation and technical assistance.

1 (B) The program shall include an identification of the agencies
2 and officials responsible for the implementation of the various
3 actions and the means by which consistency will be achieved with
4 other general plan elements and community goals. The local
5 government shall make a diligent effort to achieve public
6 participation of all economic segments of the community in the
7 development of the housing element, and the program shall
8 describe this effort.

9 (d) The analysis and program for preserving assisted housing
10 developments required by the amendments to this section enacted
11 by the Statutes of 1989 shall be adopted as an amendment to the
12 housing element by July 1, 1992.

13 (e) Failure of the department to review and report its findings
14 pursuant to Section 65585 to the local government between July
15 1, 1992, and the next periodic review and revision required by
16 Section 65588, concerning the housing element amendment
17 required by the amendments to this section by the Statutes of 1989,
18 shall not be used as a basis for allocation or denial of any housing
19 assistance administered pursuant to Part 2 (commencing with
20 Section 50400) of Division 31 of the Health and Safety Code.

21 SEC. 2. Section 65852.2 of the Government Code is repealed.

22 SEC. 3. Section 65852.8 is added to the Government Code, to
23 read:

24 65852.8. (a) (1) Except as provided in subdivisions (c), (d),
25 (e), (f), (g), and (k), a local agency may, by ordinance, provide for
26 the creation of second units in single-family and multifamily
27 residential zones. The ordinance may do any of the following:

28 (A) Designate areas within the jurisdiction of the local agency
29 where second units may be permitted. The designation of areas
30 may be based on criteria, that may include, but are not limited to,
31 the adequacy of water and sewer services and the impact of second
32 units on traffic flow.

33 (B) Impose reasonable standards on second units that include,
34 but are not limited to, parking, height, setback, lot coverage,
35 architectural review, maximum size of a unit, and standards that
36 prevent adverse impacts on any real property that is listed in the
37 California Register of Historic Places.

38 (C) Provide that second units do not exceed the allowable
39 density for the lot upon which the second unit is located, and that

1 second units are a residential use that is consistent with the existing
2 general plan and zoning designation for the lot.

3 (2) The ordinance shall not be considered in the application of
4 any local ordinance, policy, or program to limit residential growth.

5 (3) When a local agency receives its first application on or after
6 July 1, 2003, for a permit pursuant to this subdivision, the
7 application shall be approved or disapproved ministerially without
8 discretionary review or a hearing, notwithstanding Section 65901
9 or 65906 or any local ordinance regulating the issuance of
10 variances or special use permits. Nothing in this paragraph may be
11 construed to require a local government to adopt or amend an
12 ordinance for the creation of second units. A local agency may
13 charge a fee to reimburse it for costs that it incurs pursuant to this
14 paragraph, including the costs of adopting or amending any
15 ordinance that provides for the creation of second units.

16 (b) (1) When a local agency that has not adopted an ordinance
17 governing second units in accordance with subdivision (a) or (c)
18 receives its first application for a permit pursuant to this
19 subdivision, the local agency shall accept the application and
20 approve or disapprove the application ministerially without
21 discretionary review pursuant to this subdivision, unless it adopts
22 an ordinance in accordance with subdivision (a) or (c) within 120
23 days after receiving the application. Notwithstanding Section
24 65901 or 65906, a local agency may not require a variance or
25 discretionary permit for the creation of a second unit and shall
26 approve an application for a second unit that complies with all of
27 the following:

28 (A) The unit is not intended for sale and may be rented.

29 (B) The lot is zoned for single-family or multifamily use.

30 (C) The lot contains an existing single-family dwelling.

31 (D) The second unit is either attached to the existing dwelling
32 or detached from the existing dwelling and located on the same lot
33 as the existing dwelling.

34 (E) Requirements relating to height, setback, lot coverage,
35 architectural review, site plan review, fees, charges, and other
36 zoning requirements generally applicable to the primary dwelling
37 in which the property is located.

38 (F) Local building code requirements which apply to detached
39 dwellings, as appropriate.

1 (G) Approval by the local health officer where a private sewage
2 disposal system is being used, if required.

3 (H) The increased floor area of an attached second unit is not
4 less than 550 square feet, unless requested by the owner.

5 (I) The total floor area of a detached second unit is not less than
6 550 square feet, unless requested by the owner.

7 (2) No other local ordinance, policy, or regulation shall be the
8 basis for the denial of a building permit or a use permit under this
9 subdivision.

10 (3) This subdivision establishes the maximum standards that
11 local agencies shall use to evaluate proposed second units on lots
12 zoned for residential use that contain an existing single-family
13 dwelling.

14 No additional standards, other than those provided in this
15 subdivision or subdivision (a), shall be utilized or imposed.

16 (4) No changes in zoning ordinances or other ordinances or any
17 changes in the general plan shall be required to implement this
18 subdivision. Any local agency may amend its zoning ordinance or
19 general plan to incorporate the policies, procedures, or other
20 provisions applicable to the creation of second units if these
21 provisions are consistent with the limitations of this subdivision.

22 (5) A second unit that conforms to the requirements of this
23 subdivision shall not be considered to exceed the allowable density
24 for the lot upon which it is located, and shall be deemed to be a
25 residential use that is consistent with the existing general plan and
26 zoning designations for the lot. The second units shall not be
27 considered in the application of any local ordinance, policy, or
28 program to limit residential growth.

29 (c) Local agency ordinances, regulations, or policies may not
30 preclude or effectively preclude second units within all
31 residentially zoned areas unless the local agency finds, based on
32 substantial evidence, that the ordinance may limit housing
33 opportunities of the region and finding that specific adverse
34 impacts upon the public health, safety, and welfare would result
35 from allowing second units within single-family and multifamily
36 zoned areas justify adopting the ordinance.

37 (1) Local governments shall apply appropriate standards as
38 defined in Section 65913.1, and those standards shall be written,
39 objective, and adopted by the local government.

40 (2) Local agencies may not require any of the following:

1 (A) An owner's dependent or caregiver to occupy the primary
2 dwelling or second unit. A local agency may require an applicant
3 for a permit issued pursuant to this subdivision to be an
4 owner-occupant of either the primary or second unit. A local
5 agency may not impose a deed restriction requirement or other
6 limitation that (i) restricts the sale of the property to
7 owner-occupants, or (ii) restricts the occupancy of the primary or
8 second unit by tenure or any characteristic enumerated in Section
9 65008, if the applicant determines that he or she will not occupy
10 the primary or second unit.

11 (B) The occupancy of either unit to be restricted by familial
12 status, age, or any other characteristic enumerated in Section
13 65008.

14 (3) Nothing in this section shall prohibit a city, county, or city
15 and county from regulating or prohibiting transient use of second
16 units in which rent is charged and collected on a daily basis.

17 (d) A local agency may not establish minimum unit size
18 requirements for attached and detached second units below 550
19 livable square feet unless requested by the owner.

20 (e) A local agency may not establish minimum lot size
21 requirements for detached second units above twice the square
22 footage of the primary unit, unless requested by the owner.

23 (f) Parking requirements for second units shall not exceed one
24 parking space per unit or per bedroom. Covered parking may not
25 be required. *Local agencies may impose reasonable standards to*
26 *limit on-street parking.* Off-street parking shall be permitted in
27 setback areas in locations determined by the local agency or
28 through tandem parking, unless specific findings are made that
29 parking in setback areas or tandem parking is not feasible based
30 upon specific site or regional, topographical or fire and life safety
31 conditions, or that it is not permitted anywhere else in the
32 jurisdiction.

33 (g) Fees charged for the construction of second units shall be
34 determined in accordance with Chapter 5 (commencing with
35 Section 66000).

36 (h) Except as provided in subdivision (b), this section does not
37 limit the authority of local agencies to adopt less restrictive
38 requirements for the creation of second units.

39 (i) Local agencies shall submit a copy of the ordinance or
40 ordinances adopted pursuant to subdivision (a) to the Department

1 of Housing and Community Development within 60 days after
2 adoption.

3 (j) As used in this section, the following terms apply:

4 (1) "Local agency" means a city, county, or city and county,
5 whether general law or chartered.

6 (2) "Second unit" means an attached or a detached residential
7 dwelling unit which provides complete independent living
8 facilities for one or more persons. It shall include permanent
9 provisions for living, sleeping, eating, cooking, and sanitation on
10 the same parcel as the single-family dwelling is situated. A second
11 unit also includes any of the following:

12 (A) An efficiency unit, as defined in Section 17958.1 of Health
13 and Safety Code.

14 (B) A manufactured home, as defined in Section 18007 of the
15 Health and Safety Code.

16 (k) Nothing in this section shall be construed to supersede or in
17 any way alter or lessen the effect or application of the California
18 Coastal Act (Division 20 (commencing with Section 30000) of the
19 Public Resources Code), except that the local government shall not
20 be required to hold public hearings for coastal development permit
21 applications for second units.

22 (l) *A local agency may charge a reasonable fee to an applicant
23 for a permit pursuant to this section to reimburse the agency for
24 costs that it incurs as a result of the enactment of this section,
25 including the costs of adopting or amending any ordinance that
26 provides for the creation of second units.*

27 SEC. 4. Section 65917.1 is added to the Government Code, to
28 read:

29 65917.1. When a school district agrees to allow multifamily
30 or a single-family residential use on the school district's property
31 *and agrees to adequate security features such as separate*
32 *entrances that segregate the two uses*, the residential density
33 permitted on the parcel is the highest multifamily residential
34 density permitted on any parcel within 300 feet plus any density
35 bonus mandated by Section 65915. If there is no multifamily
36 residential use permitted within 300 feet, the permitted residential
37 density on the parcel being developed for primary or secondary
38 education and residential uses is the highest multifamily
39 residential density allowable in the community plan area.

1 SEC. 5. Notwithstanding Section 17610 of the Government
2 Code, if the Commission on State Mandates determines that this
3 act contains costs mandated by the state, reimbursement to local
4 agencies and school districts for those costs shall be made pursuant
5 to Part 7 (commencing with Section 17500) of Division 4 of Title
6 2 of the Government Code. If the statewide cost of the claim for
7 reimbursement does not exceed one million dollars (\$1,000,000),
8 reimbursement shall be made from the State Mandates Claims
9 Fund.

